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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Fernando Gastelum,

10 Plaintiff,

11 v.

12 Tempe Hospitality Ventures LLC,

13 Defendant.  
14

No. CV-18-00452-PHX-JJT

**ORDER**

15 At issue is Plaintiff's Motion for Attorney Fees (Doc. 19). This case is one of at  
16 least six cases before this Court brought by Plaintiff against various hotels for alleged  
17 violations of the Americans with Disabilities Act ("ADA"). The Court will deny the  
18 pending Motion for Attorney Fees without prejudice and temporarily stay this case for  
19 the same reasons as District Judge Diane Humetewa laid out in her similarly-situated  
20 cases, as follows:

21 Plaintiff has filed over 100 mirror-image cases in this District against hotels in the  
22 greater Phoenix area. In one such case, Judge G. Murray Snow granted Defendant's  
23 motion to dismiss the case, holding that Gastelum failed to show an injury-in-fact or a  
24 likelihood of future injury, and therefore that he lacked Article III standing to bring the  
25 suit. *See Gastelum v. Canyon Hospitality LLC*, No. 17-cv-02792-PHX-GMS (D. Ariz.  
26 filed August 18, 2017). As part of that decision, Judge Snow dismissed eight other  
27 actions in which Gastelum was the Plaintiff on the basis of lack of Article III standing.  
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1 Gastelum has appealed that decision to the Ninth Circuit Court of Appeals. *Gastelum v.*  
 2 *Canyon Hospitality LLC*, No. 18-16032 (9th Cir. filed June 5, 2018).

3 For reasons stated herein, the Court, in its discretion, will stay all of these  
 4 proceedings and will deny all of the pending motions without prejudice pending the  
 5 outcome of the appeal that arose from the *Gastelum* decision by Judge G. Murray Snow.

## 6 **I. Legal Authority**

7 District courts have the inherent power to manage their dockets and stay  
 8 proceedings. *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936); *Clinton v. Jones*, 520  
 9 U.S. 681, 706–707 (1997); *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005).  
 10 “The power to stay proceedings is incidental to the power inherent in every court to  
 11 control the disposition of the causes on its docket with economy of time and effort for  
 12 itself, for counsel, and for litigants.” *Landis*, 299 U.S. at 254. The inherent power to stay  
 13 includes ordering a stay “pending resolution of independent proceedings which bear upon  
 14 the case.” *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

15 Where a stay is considered pending the resolution of another action, the court need  
 16 not find that two cases possess identical issues; a finding that the issues are substantially  
 17 similar is sufficient to support a stay. *See Landis*, 299 U.S. at 254. The Ninth Circuit has  
 18 held that in determining whether a stay of a pending proceeding is appropriate based  
 19 upon the existence of other similar proceedings, a district court must weigh “the  
 20 competing interests which will be affected by the granting or refusal to grant a stay....”  
 21 *Lockyer v. Mirant Corp.*, 398 F.3d at 1110. The competing interests to be considered are:  
 22 the possible damage that may result from the granting of a stay; the hardship that the  
 23 party seeking the stay may suffer by being required to go forward; and the “orderly  
 24 course of justice measured in terms of the simplifying or complicating of issues, proof,  
 25 and questions of law which could be expected to result from a stay.” *Id.*

## 26 **II. Analysis**

27 As an initial matter, all of the cases filed by Mr. Gastelum before this Court  
 28 present the same boilerplate language, alleging nearly identical types of ADA violations,

1 and concern the same Plaintiff. In addition to these actions being similar to each other,  
 2 the actions before this Court are substantially similar in nature to those dismissed for lack  
 3 of Article III standing by Judge Snow, and currently on appeal to the Ninth Circuit. *See*  
 4 *Gastelum v. Canyon Hospitality LLC*, No. 17-cv-02792-PHX-GMS (D. Ariz. filed  
 5 August 18, 2017). Therefore, the Court finds that the issues presented by all of the cases  
 6 herein are substantially similar, and that a decision by the Ninth Circuit in the *Canyon*  
 7 *Hospitality* case will directly impact whether the Plaintiff has standing in this Court. *See*  
 8 *Landis*, 299 U.S. at 254. Having found that the matters in question are substantially  
 9 similar, the Court will now turn to the factors laid out in the *Lockyer* decision.

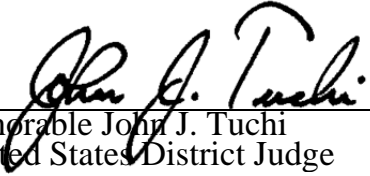
10 The Court can see no damage to either party that will result from staying these  
 11 proceedings. There is no urgency in deciding the present case, as Plaintiff is currently  
 12 litigating an appeal in at least nine cases with substantially similar factual allegations.  
 13 Moreover, the most compelling factor to consider in determining whether to stay these  
 14 proceedings is the “orderly course of justice measured in terms of the simplifying or  
 15 complicating of issues, proof, and questions of law which could be expected to result  
 16 from a stay.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). The Court currently  
 17 has a number of pending motions seeking a variety of forms of relief in these cases. The  
 18 Court would expend significant judicial resources, and delay resolutions of other matters  
 19 on the Court’s docket, in deciding these pending motions. The Court finds it to be in the  
 20 interest of efficiency and judicial economy to stay all of these matters pending the Ninth  
 21 Circuit’s decision in the *Canyon Hospitality* matter. The prospect—however uncertain—  
 22 of the parties and Court engaging in costly litigation and expending of significant judicial  
 23 resources, only to have the Ninth Circuit affirm the finding of lack of Article III standing,  
 24 warrants a stay of all pending *Gastelum* proceedings.

25 Accordingly,

26 IT IS HEREBY ORDERED that this proceeding is stayed pending the appeal in  
 27 *Gastelum v. Canyon Hospitality LLC*, No. 17-cv-02792-PHX-GMS (D. Ariz. filed  
 28 August 18, 2017).

1 IT IS FURTHER ORDERED that Plaintiff's Motion for Attorney Fees (Doc. 19)  
2 is denied without prejudice.

3 Dated this 26th day of June, 2018.

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5   
6 Honorable John J. Tuchi  
7 United States District Judge  
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